

CALIFORNIA STATE COASTAL CONSERVANCY

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September 9, 1985.

Gary Timm
California Coastal Commission
South Coast District
245 West Broadway St., Suite 380
Long Beach, CA. 90802

Dear Mr. Timm:

As we discussed over the phone, the Conservancy would very much like to have its problems with the Chiate dedications cleared up in the permit process now pending for Chiate's successor-in-interest, Donahue L. Wildman. The problems involve two different dedications: an Offer to Dedicate an access easement, which has been accepted by the Conservancy; and an Offer to Dedicate an easement for public parking, which the Conservancy was in process of accepting when it learned of possible violations. A summary of the situation and some suggested conditions for the pending permit follow:

A. The vertical access easement: The former owners of the property, Kenneth R. Chiate, Dr. Roger S. Wolk, Jeannette Chiate, and Marilyn S. Wolk, made an Offer to Dedicate a public pedestrian access easement to the shoreline, dated December 11, 1981, and recorded January 26, 1983 as Instrument No. 83-108579 in the Recorder's Office of Los Angeles County, as a condition to receiving coastal development permit No. PE-80-2707, amended by 5-81-44(A1). The State Coastal Conservancy on behalf of the State of California accepted this Offer to Dedicate in a document dated January 28, 1983 and recorded on April 5, 1983 as Instrument No. 83-374575 in the Recorder's Office of Los Angeles County. The permit applicant, Donahue L. Wildman, is the successor-in-interest to Kenneth R. Chiate, et al., and record owner of the property on which the access easement is located. On June 8, 1985, at the request of the Conservancy, Coastal Commission enforcement staff inspected the property, and informed the Conservancy in a report dated June 10, 1985, that a fence and landscaping had been placed across the entrance of the easement, effectively blocking public access to the easement. This encroachment on and obstruction of the public access easement are contrary to the purpose of the easement, and violative of the rights of the State as holder of the easement.

Our office suggests that the permit to Donahue L. Wildman be conditioned as follows, in order to clear up the violation to the easement:

"1. Prior to issuance of permit, the applicant either

(a) shall remove the fence, landscaping and any other encroachments and obstructions on the vertical access easement, for which an Offer to Dedicate dated December 11, 1981 was recorded on January 26, 1983 as Instrument No. 83-108579 in the Recorder's Office of Los Angeles County, as a condition to receiving coastal development permit no. PE-80-2707, amended by 5-81-44(A1), and which Offer to

Dedicate was accepted by the State Coastal Conservancy on behalf of the State of California in a document dated January 28, 1983 and recorded on April 5, 1983 as Instrument No. 83-374575 in the Recorder's Office of Los Angeles County; and applicant shall not interfere further with public use of aforementioned easement; or

(b) shall amend the vertical access easement, to relocate the aforementioned easement in whole or in part so as to effect public access from the Pacific Coast Highway to the shoreline by means of an existing gate and driveway which are located adjacent to the easement and which open off the Pacific Coast Highway; provided, however, that any relocation of the vertical access easement shall not lessen accessibility or convenience to the public using the accessway, as determined by the Executive Officer of the State Coastal Conservancy; and provided further that prior to recordation any amendment to the vertical access easement shall be subject to final approval by the Executive Officer of the State Coastal Conservancy. Furthermore, any amendment to the vertical access easement shall be free of any prior liens or encumbrances except for tax liens."

Finally, in reviewing the file for the vertical access easement, we noticed that the Coastal Commission in its Staff Recommendation considered a condition that would require the owners of the property to construct the accessway. The Conservancy requests that the Commission reconsider adding this condition to the current permit application, so that the applicant would make a reasonable monetary contribution towards the cost of constructing the accessway.

B. The Offer to Dedicate a public parking easement: The former owners of the property, Kenneth R. Chiate, et al., (mentioned above) made an Offer to Dedicate an easement for the purposes of public parking, dated December 11, 1981, and recorded on January 26, 1983, as Instrument No. 83-108580 in the Recorder's Office of Los Angeles County, as a condition to receiving coastal development permit no. 5-81-35. The applicant, Donahue L. Wildman, is the successor-in-interest to Kenneth R. Chiate, et al., and record owner of the property on which the Offer to Dedicate has been made. The Board of the State Coastal Conservancy voted to accept the Offer to Dedicate the public parking easement on June 11, 1982. However, while trying to complete the acceptance procedures, Conservancy staff learned from a former owner, Kenneth R. Chiate, that a driveway had been built over the site of the proposed parking easement. An inspection of the site by Coastal Commission enforcement staff (summarized in a report to the Conservancy dated June 10, 1985) showed encroachment on and obstruction of the proposed easement by a driveway, fence and landscaping. Such encroachment and obstruction interfere with the use of the site as a parking easement. The Conservancy still intends to accept the Offer to Dedicate a parking easement, if at all possible, but has halted its acceptance procedures until this problem is solved.

Our office suggests the following condition to Donahue L. Wildman's permit, should it be granted:

"2. Prior to issuance of permit, the applicant either

(a) shall remove the driveway, fence, landscaping, and any other encroachments and obstructions on the site of the proposed public parking easement, for which an Offer to Dedicate dated December 11, 1981 was recorded on January 26, 1983 as Instrument No. 83-108580 in the Recorder's Office of Los Angeles County, as a condition to receiving coastal development permit no. 5-81-35, where such encroachments and obstructions are inconsistent with the use of the easement for public parking, as determined by the Executive Director of the California Coastal Commission; or

(b) shall amend the aforementioned Offer to Dedicate a public parking easement, to relocate the parking easement elsewhere on the property, in whole or in part; provided, however, that the new easement site shall contain at a minimum the same amount of usable parking space as the existing easement site it is intended to replace, and that the new easement site shall be at least as convenient, appropriate and accessible to the public as the existing easement site, as determined by the Executive Director of the California Coastal Commission; and provided further that prior to recordation, any such amendment to the Offer to Dedicate a parking easement shall be submitted to the Executive Officer of the State Coastal Conservancy for review and comment as to the usefulness of the relocated parking easement in relation to the adjacent vertical access easement owned by the Conservancy; and provided further that prior to recordation, any amendment to the Offer to Dedicate a parking easement shall be subject to final approval by the Executive Director of the California Coastal Commission. Furthermore, any amended Offer to Dedicate a public parking easement shall be free of any prior liens or encumbrances except for tax liens."

Thank you for your help. Please feel free to call me at (415) 464-1015 if you have any questions.

Yours truly,



Donna Yee
Law Clerk